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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/354,063	07/15/1999	JOHN CRESCENTI	044463.0013	4554
29858	7590	11/10/2003	EXAMINER	
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022			COLBERT, ELLA	
		ART UNIT	PAPER NUMBER	
		3624		

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/354,063	CRESCENTI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ella Colbert	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 September 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-22,24-32,34-42 and 44-51 is/are rejected.
- 7) Claim(s) 23,33 and 43 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 6-51 are pending. Claims 1-5 have been cancelled, claims 22-51 have been added, and claims 6, 11, and 16-20 have been amended in this communication filed 09/02/03 entered as Response to the Notice of Non-Compliance, paper no. 21.
2. Amendment B filed 07/15/03 has been entered as paper no. 19.
3. As a preliminary matter please find attached to this Office Action the new rules for submitting amendments to be in compliance with 37 CFR 1.121 effective July 30, 2003.
4. The submitted corrected drawings have been reviewed and accepted in part because In Fig. 1, the reference numbers 117 and 156 are missing from the drawing figure. Drawing figures 3, 7, and 8 have been reviewed and accepted.

#### ***Drawings***

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: In Fig. 1, the reference numbers 117 and 156 are missing from the drawing figure. Correction is required. New Formal Drawings are required for Drawing figures 1, 3, 7, and 8.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 6 recites the limitation "a plurality of media software component [s] communicatively coupled to the management software component that operate [s] on at least a [the] second network device" in lines 4 and 5. Do Applicants' mean "a plurality of media software components communicatively coupled to the management software component that operates on at least a second network device"? There is insufficient antecedent basis for this limitation in the claim.

### **Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 6-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over (EP0899662 A1) Stephen Gold and Joh Bathie, hereafter Gold and Bathie In view of (US 5,764,972) Crouse et al, hereinafter Crouse.

With respect to independent claim 6, Gold and Bathie teach a management software component that operates on the first network device (col. 4, lines 51-54); a plurality of media software components communicatively coupled to the management software component, that operates on at least a second network device (col. 4, lines 41-44 and col. 13, lines 43-57).

Gold and Bathie fail to teach, a storage device communicatively coupled to the media software components the management software component selects a media software

component among the plurality of media software components and controls the selected media software component; and the selected media software component controls backup data to the storage device.

Crouse teaches, a storage device communicatively coupled to the media software components (col. 6, lines 21-35 and col. 8, lines 48-65); the management software component selects a media software component among the plurality of media software components and controls the selected media software component (col. 10, lines 61-67 and col. 11, lines 1-9); and the selected media software component controls backup data to the storage device (col. 12, lines 22-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a storage device communicatively coupled to the media software components the management software component selects a media software component among the plurality of media software components and controls the selected media software component; and the selected media software component controls backup data to the storage device and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have an archiving file system file structure with management software for controlling the media components.

With respect to claim 7, Gold and Bathie teach a client software component, communicatively coupled to the management software component and the media software component that controls backups of a particular network device (col. 1, lines 40-46, col. 4, lines 51-58, and col. 5, lines 1-6).

With respect to claim 8, Gold and Bathie teach the client software component operates on the first network device (col. 1, lines 40-470).

With respect to claim 9, Gold and Bathie teach the client software component operates on the second network device (col. 2, lines 25-30).

With respect to claim 10, Gold and Bathie teach a third network device wherein the client software operates on the third network device (col. 2, lines 36-43).

With respect to claim 11, Gold and Bathie teach a management software component that operates on a first network device of the plurality of network devices (col. 4, lines 51-54).

This independent claim is also rejected for the similar rationale given for claim 6.

With respect to claim 12, this dependent claim is rejected for the similar rationale given for claim 7.

With respect to claim 13, Gold and Bathie teach any two of the client software component, the media software component, or the manager software component operate on one of the plurality of network devices (col. 11, lines 25-49).

With respect to claim 14, Gold and Bathie teach the management software component controls backup functions for the plurality of network devices (col. 6, lines 5-20).

With respect to claim 15, Gold and Bathie teach the media software component creates an index of information on the location of archived information on the storage device, and communicates at least part of the index of information to the management software component (col. 13, lines 11-20, col. 16, lines 33-46, col. 17, lines 10-13, and col. 18, lines 39-56).

With respect to claim 16, Gold and Bathie teach at least one backup device communicatively coupled to the media software component (col. 11, lines 37-49); the client component software controls backups of any particular computing device (col. 5, lines 37-50); and at least one of either the media software component or the client software component runs on the second computing device (col. 4, lines 41-55).

This independent claim is also rejected for the similar rationale given for claims 6, 7, 11, and 12.

With respect to claim 17, Gold and Bathie teach the management component software controls backups of the plurality of computing devices (col. 5, lines 1-6 and col. 11, lines 7-15).

This dependent claim is also rejected for the similar rationale given for claim 7.

With respect to claim 18, Gold and Bathie teach at least one backup device (col. 11, lines 20-22).

This dependent claim is rejected for the similar rationale given for claim 15.

With respect to claim 19, Gold and Bathie teach, the management component software and the media component software operate on different computing devices (col. 16, lines 1-18).

With respect to claim 20, Gold and Bathie teach the management component software and the media component software operate on the same computing device (col. 11, lines 16-30).

With respect to claim 21, Gold and Bathie teach the backup device comprises a plurality of different media (col. 11, lines 31-48, col. 13, lines 47-58, and col. 14, lines 1-4).

10. Claims 22, 24-32, 34-42, and 44-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over (EP 0899662) Gold and Bathie in view of (US 5,764,972) Crouse et al, hereinafter Crouse and further in view of (US 5,875,478) Blumenau.

With respect to claims 22, 32, and 42, Gold and Bathie and Crouse fail to teach, wherein the selected media software component comprises at least one software module directed to controlling backup and retrieval of data to the storage device.

Blumenau teaches, wherein the selected media software component comprises at least one software module directed to controlling backup and retrieval of data to the storage device (col. 2, lines 21-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the selected media software component comprise at least one software module directed to controlling backup and retrieval of data to the storage device and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have an archive media system with the computer communicating with the remote archive repository which includes a control program and backup for the computer without additional hardware.

With respect to claims 24, 34, and 44, Gold and Bathie and Crouse fail to teach, wherein the at least one software module comprises a data mover software module directed to managing the physical transfer of data to and from the storage device.

Blumenau teaches, wherein the at least one software module comprises a data mover software module directed to managing the physical transfer of data to and from the storage device (col. 1, lines 51-62 and col. 3, lines 37-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one software module comprise a data mover software module directed to managing the physical transfer of data to and from the storage device and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have data backed up on a host storage disk and make write requests to store a copy at a remote archive repository.

With respect to claims 25, 35, and 45, Gold and Bathie and Crouse did not teach, wherein the at least one software module comprises a library software module directed to controlling physical media of the storage device, Blumenau teaches, wherein the at least one software module comprises a library software module directed to controlling physical media of the storage device (col. 3, lines 13-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the at least one software module comprise a library software module directed to controlling physical media of the storage device and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have a computer system that includes a backup application, a archive media system, a file system with a host storage driver, and a backup driver and a host disk.

With respect to claims 26, 36, and 46, Gold and Bathie and Crouse fail to teach, wherein the management software component comprises at least one software module directed to coordinating usage of the storage device.

Blumenau teaches, wherein the management software component comprises at least one software module directed to coordinating usage of the storage device (col. 3, lines 30-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the at least one software module comprise at least one software module directed to coordinating usage of the storage device and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have a system that carries out a logical to physical mapping and determines where the file is actually located and which files are stored along with actual data on a disk.

With respect to claims 27, 37, and 47, Gold and Bathie and Crouse fail to teach, wherein the at least one software module comprises an application software module directed to storing backup and retrieval preferences of a software application.

Blumenau teaches, wherein the at least one software module comprises an application software module directed to storing backup and retrieval preferences of a software application (col. 3, lines 58-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one software module comprise an application software module directed to storing backup and retrieval preferences of a software application and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have a backup driver to communicate with the backup application on a desktop that supports a tape drive that can be used for storage.

With respect to claims 28, 30, 38, 40, 48, and 50, Gold and Bathie and Crouse fail to teach, wherein the at least one software module comprises an archive software module directed to tracking the location of data across library media.

Blumenau teaches, at least one software module comprises an archive software module directed to tracking the location of data across library media (col. 4, lines 50-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one software module comprise an archive software module directed to tracking the location of data across library media and to modify in Gold and Bathie because such a modification would allow Gold and Bathie to have a media system to look at the return values of an IOCTL to specify whether the operation

is a read or write and then transmit to the tape library and wait for the backup driver (tracking the location of data across library media).

With respect to claims 29, 39, and 49, Gold and Bathie, Crouse, and Blumenau fail to teach, wherein the at least one software module comprises a jobs software module directed to managing system processes, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one software module comprise a jobs module directed to managing system processes and to modify in Gold and Bathie because such a modification would allow Gold and Bathie's system to manage the various tasks (jobs) in a network system to prevent a system failure.

With respect to claims 31, 41, and 51, this dependent claims are rejected for the similar rationale as given above for claims 22, 24-30, 32, 34-40, 42, and 44-50.

#### ***Allowable Subject Matter***

11. Claims 23, 33, and 43 would be allowable if rewritten in independent format to include all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: claims 23, 33, and 43 reciting "an indexing software module directed to recording a physical address on a storage device where particular information is located" the prior art fails to anticipate, make obvious, or fairly suggest this limitation.

#### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3624

Blumenau et al (US 6,421,711) disclosed data storage in a network and a storage controller.

Crighton (US 6,330,570) disclosed a backup system for backing up data.

Long (US 6,328,766) disclosed a media element library with a first host and a second host.

### **Inquiries**

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



E. Colbert  
November 1, 2003



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

### MEMORANDUM

**DATE:** July 25, 2003

**TO:** Technology Center Directors

**FROM:** Stephen G. Kunin *Stephen G. Kunin*  
Deputy Commissioner for Patent Examination Policy

**SUBJECT:** Revised Amendment Practice Final Rule Effective July 30, 2003

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 Fed. Reg. 38611 (June 30, 2003)), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/notices.html> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. The Office will notify applicants of preliminary and non-final amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). After-final amendments will be treated by examiners in advisory actions. The non-compliant section(s) of the amendment will have to be corrected and the entire corrected section(s) resubmitted within a set period.

The revised amendment practice is essentially the same as the amendment practice that the Office set forth in **AMENDMENTS IN A REVISED FORMAT NOW PERMITTED**, 1267 Off. Gaz. Pat. Office 106 (February 25, 2003) with some exceptions summarized here. The revised amendment practice, as distinguished from the voluntary revised amendment format, now: (1) requires the use of seven claim status identifiers (formerly eleven) including new identifiers "previously presented" and "not entered," (2) requires the inclusion of text for "withdrawn" claims and the exclusion of text for "not entered" claims in the complete listing of all claims, (3) mandates use of underlining and strikethrough for indicating changes to the specification and/or claims, (4) permits use of double brackets for the deletion of five or fewer characters or difficult to perceive text, and (5) provides for applicant's submission of, or examiner's requirement for, annotated drawing sheets in addition to the required replacement drawing sheets.

Amendments filed prior to July 30, 2003 in compliance with the previous version of 37 CFR 1.121 or the revised version promulgated in the Notice of Final Rule Making 68 Fed. Reg. 38611 (June 30, 2003) will be accepted. New informational flyers are being inserted with each out-going Office Action mailed during the period of June 2003 to August 2003. The flyer instructs applicants in the procedures to be used to comply with the revised practice for amendments to the claims, specification, and drawings. A copy of the flyer is included herewith for your information.

**Further Assistance:** Any questions regarding the submission of amendments pursuant to the revised practice should be directed to Office of Patent Legal Administration (OPLA) Legal Advisors, Elizabeth Dougherty ([Elizabeth.Dougherty@uspto.gov](mailto:Elizabeth.Dougherty@uspto.gov)), Gena Jones ([Eugenia.Jones@uspto.gov](mailto:Eugenia.Jones@uspto.gov)) or Joe Narcavage ([Joseph.Narcavage@uspto.gov](mailto:Joseph.Narcavage@uspto.gov)). Alternately, you may send e-mail to [patentpractice@uspto.gov](mailto:patentpractice@uspto.gov), the OPLA e-mail address that has been established for receiving queries and questions about patent practice and procedures or telephone OPLA at 703.305.1616.

## **REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003**

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 Fed. Reg. 38611 (June 30, 2003), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

**Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.**

Note: The amendment practice for reissues and reexamination proceedings, except for drawings, has not changed.

### **REVISED AMENDMENT PRACTICE**

#### **I. Begin each section of an amendment document on a separate sheet:**

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

#### **II. Two versions of amended part(s) no longer required:**

37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

##### **A) Amendments to the claims:**

Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, must include a complete listing of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and the text of each pending claim (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), (previously presented) and (not entered). The text of all pending claims, including withdrawn claims, must be submitted each time any claim is amended. Canceled and not entered claims must be indicated by only the claim number and status, without presenting the text of the claims.
- (2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as). An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.
- (3) The text of pending claims not being currently amended, including withdrawn claims, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

- (4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.
- (5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.
- (6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (e.g., Claims 1 – 5 (canceled)).

**Example of listing of claims (use of the word "claim" before the claim number is optional):**

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

**B) Amendments to the specification:**

Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[error]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as)

**C) Amendments to drawing figures:**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment (e.g., as an appendix). The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to [patentpractice@uspto.gov](mailto:patentpractice@uspto.gov) or by phone at (703) 305-1616.